

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

| | | |
|---------------------------|---|-------------------------------|
| GREGORY RUTH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CV06-1137-WKW |
| |) | |
| |) | |
| THE CADLE COMPANY, |) | |
| |) | |
| Defendant. |) | |

EMERGENCY MOTION FOR PROTECTIVE ORDER

COMES NOW, the Defendant, The Cadle Company, by and through the undersigned counsel, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, and requests a Protective Order postponing the deposition of the Defendant, which has been scheduled for Wednesday, September 19, 2007, to be taken in Newton Falls, Ohio. As grounds for this motion, the Defendant states as follows:

1. The Defendant has just, as of September 17, 2007, retained the undersigned counsel in this case, and counsel has not had an adequate opportunity to become familiar with the facts and legal issues that are presented. Counsel needs additional time to review the file and confer with the Defendant concerning these matters.

2. The corporate representative that the Defendant would designate as the 30(b)(6) representative is scheduled to participate in a trial in another matter on Wednesday, September 19, 2007, the date that this deposition has been scheduled.

3. The discovery deadline in this case is May 19, 2008. Therefore, a postponement of the deposition should not affect the existing scheduling order or cause undue delay.

4. Before filing this motion, defense counsel conferred in good faith with counsel for the Plaintiff in an effort to resolve this dispute without court action. This matter may still be resolved without court action and, if so, the undersigned counsel will notify the Court immediately that this motion is moot. However, at this time, counsel for the Plaintiff has not agreed to voluntarily postpone the depositions.

5. The Defendant has volunteered, and agrees, to reimburse the Plaintiff's attorney for any non-refundable travel expenses that he has actually and reasonably incurred in connection with the scheduled deposition, to the extent no refund can be obtained.

/s/Brenton K. Morris

Brenton K. Morris (ASB: 8119-R46B)

OF COUNSEL:

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Birmingham, Alabama 35203
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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM-ECF system, which will send notification of such filing to all parties requesting electronic service, and, served a copy of the above and foregoing upon the below-listed persons/entities by depositing a copy of same in the United States mail, properly addressed, first-class postage prepaid, as follows:

Gerald Alan Templeton, Esq.
The Templeton Group, PC
1000 Providence Park, Suite 200
Birmingham, Alabama 35242

Jack R. Thompson, Jr., Esq.
Kracke & Thompson LLP
2204 Lakeshore Drive, Suite 306
Birmingham, Alabama 35205

Glenn Joseph Shaul, Esq.
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2201 Arlington Avenue South
Birmingham, Alabama 35205

/s/Brenton K. Morris

OF COUNSEL

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| THE CADLE COMPANY, |) | |
| |) | |
| Defendant. |) | |

PROTECTIVE ORDER

Upon consideration of the Emergency Motion for Protective Order filed by the defendant (Doc. # ____), it is hereby

ORDERED that the motion is GRANTED.

Counsel for the Plaintiff is directed to submit to the Defendant an invoice and supporting documentation relating to any out of pocket travel expenses actually and reasonably incurred by him in connection with the deposition scheduled for September 19, 2007, for which no refund is available. Upon receipt of such invoice, the Defendant shall promptly reimburse the Plaintiff for such expenses.

DONE this ____ day of September, 2007.

UNITED STATES DISTRICT JUDGE

ORDER PREPARED BY:

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